

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LORIE DUFF	)	
	)	
PLAINTIFF	)	
	)	
v.	)	CIVIL ACTION NO. 4:20-CV-03430
	)	
FRONTIER AIRLINES, INC. AND ABM	)	JURY DEMANDED
AVIATION, INC.	)	
	)	
DEFENDANTS	)	

**PLAINTIFF’S MOTION FOR CONTEMPT, OR IN THE ALTERNATIVE MOTION TO  
SHOW CAUSE AND COMPEL NON-PARTY WITNESS AYLANCIA LILLIE TO  
APPEAR FOR DEPOSITION**

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW, LORI DUFF (“Plaintiff”) requesting the Court to find non-party Witness Aylancia Lillie in contempt for failure to obey a duly served subpoena (Doc. 69) or in the alternative compel her to show cause for nonappearance and/or compel her to appear for her deposition and for cause would show as follows:

**I. Introduction**

1. This lawsuit arises from an incident (Plaintiff fell from a wheelchair disembarking an airplane) where employees of Defendant ABM Aviation, Inc. were assisting Plaintiff at Houston Intercontinental Airport. One of the two employees, Aylancia Lillie, was properly served with a subpoena to appear for her deposition on April 19, 2023 at the office of the undersigned. Doc. 69 (Return of Service for the Subpoena).
2. Counsel for Plaintiff and ABM Aviation, Inc. appeared for the deposition, but the witness ignored the subpoena and did not appear. See Ex. A, Certificate of Non-Appearance.
3. The return of service shows that Aylancia Lillie was served in Houston, Harris County, well

within the allowed subpoena range.

## **II. Relief Requested**

4. Aylancia Lillie is a direct witness to the events underlying this lawsuit and her testimony is needed.
5. If a person does not obey a subpoena or a subpoena related order, a court can hold the person in contempt. FRCP 45(g); see also *Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1342 (8<sup>th</sup> Cir. 1975).
6. Per FRCP 45(g), Plaintiff seeks an order finding Aylancia Lillie in contempt for failing to appear for her deposition per the properly served subpoena. The certificate of non-appearance shows, by clear and convincing evidence, that the witness failed to honor the subpoena. Ex. A.
7. If the Court does not find Aylancia Lillie in contempt, the Plaintiff alternatively requests the Court issue an order compelling Aylancia Lillie to appear for her deposition and/or show cause why should not be compelled to appear for her deposition.

## **III. Prayer**

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Court grant this Motion and find non-party witness Aylancia Lillie in contempt, or in the alternative, order Aylancia Lille to show cause for her non-appearance and compel her to attend her deposition. Plaitniff further requests all other relief at law or equity for which Plaintiff may show herself entitled.

Respectfully Submitted,

**THE FORSBERG LAW FIRM, P.C.**

BY: /s/ Kevin Forsberg  
KEVIN A. FORSBERG  
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**CERTIFICATE OF SERVICE**

This is to certify that on May \_\_11\_\_, 2023, a true and correct copy of the foregoing documents was served by efilng on:

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**Aylancia Lillie      Via USPS:    9405 5036 9930 0542 5535 20**  
**1015 Hummingbird Point Lane**  
**Houston, Texas 77090**

\_\_\_\_\_/s/ Kevin A. Forsberg\_\_\_\_\_  
KEVIN A. FORSBERG

Certificate of Conference

The undersigned provided a copy of this motion to counsel Marc Rose for ABM Aviation, Inc. before filing and they indicated they have no objection to the granting of this motion.

\_\_\_\_\_/s/ Kevin Forsberg\_\_\_\_\_  
Kevin Forsberg

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